

6 May 2002

Federal Communications Commission
236 Massachusetts Avenue, NE
Suite 110
Washington, DC 20002

**COMMENTS RE: IMPROVING PUBLIC SAFETY COMMUNICATIONS IN THE 800
MHz BAND AND CONSOLIDATING THE 900 MHz INDUSTRIAL/LAND
TRANSPORTATION AND BUSINESS POOL CHANNELS
WT DOCKET NO. 02-55; FCC 02-81**

On behalf of the National Ready Mixed Concrete Association (NRMCA), I respectfully submit the following comments on the April 5, 2002 *Federal Register* Notice of Proposed Rulemaking (47 CFR Part 90) proposing to enhance communications within the 800 MHz radio band for public safety use. NRMCA is a national trade association representing over 800 ready mixed concrete producers and suppliers to the industry. Many, although not all, ready mixed concrete and construction companies communicate with their employees using equipment that operates within the 800 MHz band. The most common use is between the base of operations and drivers en route to, at or returning from a job site back to the plant. On behalf of those companies who would be affected by the proposed rule, we wish to note a number of concerns and questions we have regarding the rule as well as with the proposal submitted by Nextel Communications Inc. (Nextel). We feel there are far too many unanswered questions and that the proposal is lacking enough justification for the Federal Communications Commission (FCC) to finalize it.

One of the questions that needs to be asked before commencing with finalizing a rule that may be very costly to all affected, including those very public safety communities the FCC seeks to help, is if such a reallocation will indeed be worthwhile. Although in Nextel's proposal, they offer to assist community public safety systems in paying up to \$500 million for reallocation costs, will this be enough to pay for not only the reallocation (for all the systems that will need to be moved), but all the necessary equipment needed to complete the reallocation? What about those communities who may have recently spent thousands of dollars in tax payer money to upgrade to a new system and purchase new equipment? Will they be required to change again? Have public safety systems that will be affected, independent of those groups approached by and working with Nextel, requested such a reallocation? Would those many public safety agencies operating on the VHF level even consider moving to a higher level? While the driving force seems to be, on the surface, an altruistic gesture on the part of a billion dollar communications corporation, the fact that the corporation in question stands to make a great deal of money over the long run concerns us. It should also be noted that Nextel has sought to purchase lines within the 800 MHz band from companies, including some NRMCA members. However, Nextel has been unwilling to pay the fair market price for these lines, which may run \$1,000,000 per line or more. Should the FCC accept this

proposal, Nextel will be provided with radio bands worth a great deal more than the \$500 million they are offering to pay to help public safety communications make the switch over to the new system. While their proposal may provide some decrease in interference for public safety communications, we question whether or not it is the best solution for all of those involved.

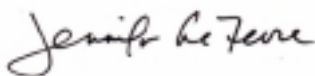
The FCC notes that the purpose of this proposed rule is specifically to enhance communications for public safety systems operations. However, in light of the FCC's recent final rule transferring 50 MHz of spectrum in the 4940-4990 MHz band (4.9 GHz band) to provide public safety users with additional spectrum (WT Docket No. 00-32; FCC 02-47 – final rule published April 9, 2002), we question the need for reallocation within the 800 MHz spectrum as well. Is there additional government-owned spectrum that may be available for reallocation for public safety communication purposes? Are there any proposals to move even more government-owned spectrum lines to the public sector to enhance public safety communications? Is that another possible alternative?

We also encourage the FCC to consider all costs involved with the proposed reallocation. As noted above, those businesses and public safety communities that currently operate in the 800 MHz band will not only be forced to buy (or move to) lines on another frequency, but they will also be forced to purchase equipment, for all of their operations, that is capable of operating on the new frequency. It is also unclear what percentage of public safety communications are being hindered by increased interference and what type of impartial cost-benefit analysis has been completed (other than Nextel's proposal) to justify the reallocation.

In their white paper, Nextel notes two important facts: the first is that their very own network is contributing to interference to public safety communications and second, that others operating within the 800 MHz frequency are doing so in compliance with FCC regulations. Has Nextel sought to remedy their "unintended interference" in other ways prior to recommending a plan that would displace others operating in compliance with FCC regulations within the 800 MHz band? If they have sought to do so, we are unaware of the effort. When purchasing various radio bands, was Nextel unaware of the fact that their communications may be hindered by the fact that their bands were not contiguous when they purchased them? Certainly, promulgation of this rule will effectively solve any problems Nextel faced in that area.

Although we are not including in these comments comprehensive alternatives to Nextel's plan to decrease public safety communications interference, we do have a number of unanswered questions and concerns we feel should be addressed before the FCC commences with finalizing a rule on this issue. Should you have any questions regarding these comments, please feel free to contact me at 301-587-1400, extension 136.

Sincerely,



Jennifer LeFevre
Director of Government Relations